

FREEPORT COUNCIL MEETING #21-92

SEPTEMBER 8, 1992 - 7:30 P.M. - COUNCIL CHAMBERS

SUMMARY AGENDA

ITEM #182-92 TO CONSIDER ACTION RELATIVE TO A RE-APPLICATION FOR A SPECIAL AMUSEMENT PERMIT FOR DANCING AND ENTERTAINMENT. JEAN S. MACLEOD & NANCY D. GRAY (PUBLIC HEARING).

ITEM #183-92 TO CONSIDER ACTION RELATIVE TO CASTING A BALLOT FOR MAINE MUNICIPAL ASSOCIATIONS OFFICERS AND VOTING DELEGATES FOR 1992-93.

ITEM #184-92 TO CONSIDER ACTION RELATIVE TO A TRANSFER OF FUNDS TO THE EQUIPMENT RESERVE ACCOUNT.

ITEM #185-92 TO CONSIDER ACTION RELATIVE TO THE ESTABLISHMENT OF A MUNICIPAL BUILDING MAINTENANCE ACCOUNT.

ITEM #186-92 TO CONSIDER ACTION RELATIVE TO AMENDMENTS TO THE FISCAL YEAR 1993 MUNICIPAL AND SCHOOL OPERATING BUDGET.

ITEM #175-92 TABLED AUGUST 25, 1992. TO CONSIDER ACTION RELATIVE TO PROPOSED AMENDMENTS TO THE ADMINISTRATIVE CODE. (CHAPTER 2)

ITEM #176-92 TABLED AUGUST 25, 1992. TO CONSIDER ACTION RELATIVE TO PROPOSED AMENDMENTS TO THE TRAFFIC & PARKING ORDINANCE. (CHAPTER 48)

ITEM #177-92 TABLED AUGUST 25, 1992. TO CONSIDER ACTION RELATIVE TO PROPOSED AMENDMENTS TO THE SHELLFISH CONSERVATION ORDINANCE. (CHAPTER 32)

ITEM #178-92 TABLED AUGUST 25, 1992. TO CONSIDER ACTION RELATIVE TO PROPOSED AMENDMENTS TO THE FREEPORT ZONING MAP. (CHAPTER 21)

OTHER BUSINESS:

- 1). REPORT ON DEDICATED RESERVE ACCOUNTS.
- 2). DISCUSSION ON POTENTIAL STATE REVENUE SHORTFALLS AND ITS EFFECT ON STATE ASSISTANCE TO SCHOOLS AND MUNICIPALITIES.

ITEM #187-92 TO CONSIDER ACTION RELATIVE TO AN EXECUTIVE SESSION.

END OF AGENDA

MINUTES

FREEPORT TOWN COUNCIL MEETING #21-92

FREEPORT TOWN HALL COUNCIL CHAMBERS

SEPTEMBER 8, 1992 - 7:30 P.M.

	REGULAR	X	SPECIAL	
VICE-CHAIRPERSON'S CALL TO ORDER	PRESENT	ABSENT	EXCUSED	
VAUGHNDELLA CURTIS, CHAIRPERSON PINE STREET				X
KIRK GODDARD, VICE-CHAIRMAN MAST LANDING		X		
EDWARD BRADLEY, FLYING POINT		X		
JOHN NELSON, CHURCH ROAD		X		
ANDREW ARSENAULT US ROUTE #1		X		
CARY VEILLEUX, WARDTOWN ROAD		X		
RANDALL BENNETT, PARK STREET		X		

MOVED AND SECONDED - To waive the reading of the minutes of Meeting #19-92 held August 25, 1992 and #20-92 held September 1 and accept the minutes as printed. Mr. Olmstead pointed out that an amendment needed to be made to the minutes concerning Item 179-92 reflecting a vote of 6 Ayes and 0 Nays to extend the moratorium on private property peddlers. That motion was to table the extension and not vote on it until the following meeting which was held on September 1. (Councilors Bradley and Veilleux) (6 Ayes) (0 Nays). Councilor Bradley amended Item 167-92 where reference was made to a Seiko Fund. It should have read "sinking fund". (Councilors Bradley & Veilleux) (6 Ayes) (0 Nays) After these changes were made, the minutes were accepted (Councilors Veilleux & Bradley (6 Ayes) (0 Nays)

Second Order of Business: Public Comment Period - 15 Mins.

Councilor Veilleux advised that he had received a request from Fred Stasinowsky, a Selectman from Pownal asking for a copy of any correspondence that Freeport sends forth regarding any type of truck issue or speed limit issue coming to the Hunter Road or any other road from Pownal into Freeport. He asked if anyone had any objections to this request and none were brought forward.

Peter Moulton pointed out that he didn't always understand the agenda items listed in THE SHOPPING NOTES such as "to consider action relative to the proposed amendments to the administrative code. He felt some further clarification should be added in parenthesis perhaps to make these items more easily identified..

Councilor Arsenault asked when the balance of the tax notices would be going out. Mr. Olmstead indicated that the remaining notices would be out by the end of this week. The hearing process would be extended approximately 10 days and the opportunity for second hearings will be afforded residents. Mr. Olmstead indicated that most of the concerns center around land values and at some future date, MMC will explain their land schedule to residents and be available to answer questions. This session will be advertised shortly.

Councilor Nelson thanked Councilor Veilleux for taking the lead in informing people about the property tax circuit breaker program and wondered if there is anything being done to inform people about the session coming up this month. He felt that it was important to get the word out to those residents that may have problems with their property tax bill. Councilor Veilleux indicated there would be a town-wide mailer going out informing everyone of the workshop that is to be held on September 24 at 7:30 p.m. It will be on cable and there will also be articles published in the newspapers.

Third Order of Business: To take action on the following items of business as read by the Council Chairperson.

MOVED AND SECONDED: That the Council introduce an item not on the printed agenda. (Councilors Nelson & Veilleux (6 Ayes) (0 Nays)

ITEM # 188-92

MOVED AND SECONDED: To consider action relative to applications for Victualer Licenses for L. L. Bean, Inc. (Councilors Nelson & Veilleux) (6 Ayes) (0 Nays)

MOVED AND SECONDED: that the Council adjourn and the Licensing Board convene (Councilors Nelson & Bradley)

ROLL CALL OF MEMBERS:

Kirk Goddard
Edward Bradley
Andrew Arsenault
John Nelson
Cary Veilleux
Randall Bennett
Dale Olmstead

MOVED AND SECONDED: That the following applications for Victualer Licenses be subject to Public Hearing:

L.L. Bean, Inc. Peddler/Private Property - Desert Road

L.L. Bean, Inc. Peddler/Private Property - Double L Street

L.L. Bean, Inc. Peddler/Private Property - Casco Street
(Councilors Nelson & Bradley) (6 Ayes) (0 Nays)

MOVED AND SECONDED: That the Public Hearing be closed.
(Councilors Nelson & Veilleux) (6 Ayes) (0 Nays)

MOVED AND SECONDED: That the applications for Victualer Licenses as noted above be approved. (Councilors Nelson & Veilleux) (6 Ayes) (0 Nays)

MOVED AND SECONDED: That the Licensing Board adjourn and the Council reconvene (Councilors Nelson & Veilleux) (6 Ayes) (0 Nays)

ITEM #182-92

MOVED AND SECONDED: That the following re-applications for a Special Amusement Permit for Dancing and Entertainment be subject to Public Hearing.

Jean S. MacLeod, d/b/a Ocean Farms of Freeport, Inc., 23 Main Street.

Nancy D. Gray, d/b/a Harraseeket Inn, 162 Main Street
(Councilors Veilleux & Bennett) (6 Ayes) (0 Nays)

MOVED AND SECONDED: That the Public Hearing be closed.
(Councilors Veilleux & Bennett) (6 Ayes) (0 Nays)

BE IT ORDERED: That the re-applications for a Special Amusement Permit for Dancing and Entertainment issued to Jean S. MacLeod, d/b/a Ocean Farms of Freeport, Inc., 23 Main Street and Nancy D. Gray, d/b/a Harraseeket Inn, 162 Main Street, be approved. (Councilors Veilleux & Arsenault) (6 Ayes) (0 Nays)

ITEM #183-92

BE IT ORDERED: That the Town of Freeport cast its ballot for Maine Municipal Association's slate of officers for 1992-93 as proposed.

BE IT FURTHER ORDERED: That Dale Olmstead be appointed as Freeport's Voting Delegate and Jacki Cohen be appointed as Alternate Voting Delegate at the MMA's Annual Business Meeting. (Councilors Bradley & Veilleux) (6 Ayes) (0 Nays)

ITEM #184-92

BE IT ORDERED: That \$227,600 be transferred from the Earned Interest Capital Account to the Equipment Reserve Account.
(Councilors Bennett & Veilleux) (6 Ayes) (0 Nays)

ITEM #185-92

BE IT ORDERED: That a Municipal Building Maintenance Account be established.

BE IT FURTHER ORDERED: That the balance of funds from the Middle School Insurance Account (\$31,860 est.) and the Street Reconstruction Fund (\$4,910 est.) be transferred to the Municipal Building Maintenance Account (Councilors Arsenault & Bennett) (6 Ayes) (0 Nays)

ITEM #186-92 **BE IT ORDERED:** That the Fiscal Year 1993 Municipal and School Operating Budget be amended as follows:

Expenditures:

Debt Service - Reduce from \$1,231,699 to \$1,007,701.

Revenues:

Property Tax - Reduce from \$9,234,740 to \$9,027,742 (Councilors Nelson & Bennett) (6 Ayes) (0 Nays)

ITEM #186-92 **MOVED AND SECONDED TO AMEND:**

To increase the Public Works Budget from \$760,961 to \$777,961 to provide for improved shoulders on the Desert and Merrill Roads and to provide for centerline striping on the Desert Road.

Amount to be raised by taxation increased from \$9,010,742 to \$9,027,742 (Councilors Veilleux & Bradley) (5 Ayes) (1 Nay- Arsenault)

ITEM #186-92 **MOVED AND SECONDED TO AMEND:** To increase the Unclassified Account from \$201,467 to \$203,822 and increase the amount to be raised by taxation from \$9,027,742 to \$9,030,097. This item is to be looked at again next year. (Councilors Bradley & Nelson) (5 Ayes) (1 Nay- Arsenault).

ITEM #175-92 **BE IT ORDERED:** That the proposed amendments to the Freeport Administrative Code, as submitted to Public Hearing on August 25, 1992, be tabled. (Councilors Veilleux & Arsenault) (4 Ayes) (2 Nays)

ITEM #176-92 **BE IT ORDERED:** That the proposed amendments to the Traffic and Parking Ordinance, as submitted to Public Hearing on August 25, 1992, be approved. (Councilors Nelson & Veilleux) (5 Ayes) 1-Nay Arsenault).

attached amendments

ITEM #177-92 **BE IT ORDERED:** That the proposed amendments to the Shellfish Conservation Commission, as submitted to Public Hearing on August 25, 1992 be approved. (Councilors Bennett & Veilleux) (6 Ayes) (0 Nays)

attached amendments

ITEM #178-92

BE IT ORDERED: That the Town of Freeport accept the following deed restrictions and gift of property as amended: (Councilors Bradley & Bennett) (6 Ayes (0 Nays)

Tax Map 22, Lot 22, from Wishcamper-O'Neil properties, a 100 foot setback on the Desert Road side of the property;

Tax Map 22, Lot 21 from Wishcamper-O'Neil properties, a 50 foot setback on the Desert Road side of the property.

Tax Map 22, Lot 21 from Wishcamper-O'Neil properties, a gift of property.

BE IT FURTHER ORDERED: That the proposed amendments to the Freeport Zoning Map, as submitted to Public Hearing on August 25, 1992, be approved as follows:

Redesignate Tax Map 22, Lots 21, 22 and 22E from Rural Residential I to Industrial II;

Redesignate Tax Map 26, Lot 21 from Rural Residential I to Industrial II.

MOVED & SECONDED: That the Chairman be allowed to waive the second reading of this item (Councilors Bradley & Bennett) (6 Ayes) (0 Nays)

MOTION TO AMEND ITEM #178-92 to delete Paragraph 3 stating "Tax Map 22, Lot 21 from Wishcamper-O'Neil properties, a gift of property" and table the consideration of the acceptance of that until the meeting of September 22. (Councilors Bradley & Veilleux (6 Ayes) (0 Nays)

MOTION TO AMEND ITEM #178-92 to add a further condition that the Gerber parcel and the adjacent parcel be restricted to business and professional offices only, plus permitted uses not requiring Site Plan Review. (Councilors Nelson & Veilleux) (3 Ayes-Veilleux, Bradley, Nelson) (3 Nays-Bennett, Arsenault, Goddard) Failed by tie vote.

MOVED & SECONDED: To introduce an item not on the printed agenda. (Councilors Veilleux & Bennett) (6 Ayes) (0 Nays)

ITEM #189-92

MOVED & SECONDED: That the Town Council agree to appoint a committee, which will include representatives of the Desert Road and Desert Pines area, to investigate the following issues: thru traffic on the Merrill & Desert Roads; and an Alternative Travel Lane on the Desert Road and possibly other roads in the area and that this committee will make an effort to work with an already established group working on Alternative Travel Lanes as well as the Planning Board. (Councilors Veilleux & Bennett) (6 Ayes) (0 Nays)

OTHER BUSINESS:

- Report on Dedicated Reserve Accounts.
- Discussion on potential State Revenue Shortfall and its effect on State Assistance to Schools and Municipalities. Nancy Clark shared her thoughts on what has been appearing in the press concerning the potential State Revenue shortfall. She did not have any magic ball projections but said for planning purposes, on the municipal side of the budget, Freeport should optimistically anticipate level funding and the same on the school side of the budget but she didn't know what the exact figures will be. Mr. Lyman also shared his concerns about potential financial problems.
- Mr. Olmstead mentioned that the Council needs to schedule an Appointments Committee meeting for the 22nd of September.
- Mr. Olmstead advised that Chairperson Curtis had hoped the Council would authorize the expenditure of \$980 from the Soule School moneys to pay for double pane windows. The cost of the labor would be \$1,260 from Portland Glass Company but this portion would not be paid for by the Town. Councilor Bennett felt this amount appeared high and that bids should be sought from smaller companies. The Council concurred.
- Councilors Veilleux and Nelson indicated they did not want to accept their Council stipends and they were advised by Mr. Olmstead to write a letter to the Finance Department indicating that it is their intention to not accept the stipend and designate what they want done with it.
- Councilor Bradley indicated that the Ordinance Committee met before the Council and they will be setting up a public hearing to discuss the pros and cons of Freeport using a single trash hauler.

ITEM #187-92

MOVED & SECONDED: That the Council enter into Executive Session to discuss the potential acquisition of property.
Councilors Bennett & Veilleux) (6 Ayes) (0 Nays)

MOVED AND SECONDED: That the Council reconvene from the Executive Session. (Councilors Veilleux & Nelson) (6 Ayes) (0 Nays)

MOVED AND SECONDED: That the Council adjourn at 11:25 P.M.
(Councilors Nelson & Bennett) (6 Ayes) (0 Nays)

THE FOREGOING WAS RECORDED BY:

Sharon Coffin

SHARON COFFIN, RECORDER

TOWN OF FREEPORT

Municipal Offices

(207) 865-4743



Dale C. Olmstead, Jr.

Town Manager

(207) 865-4856

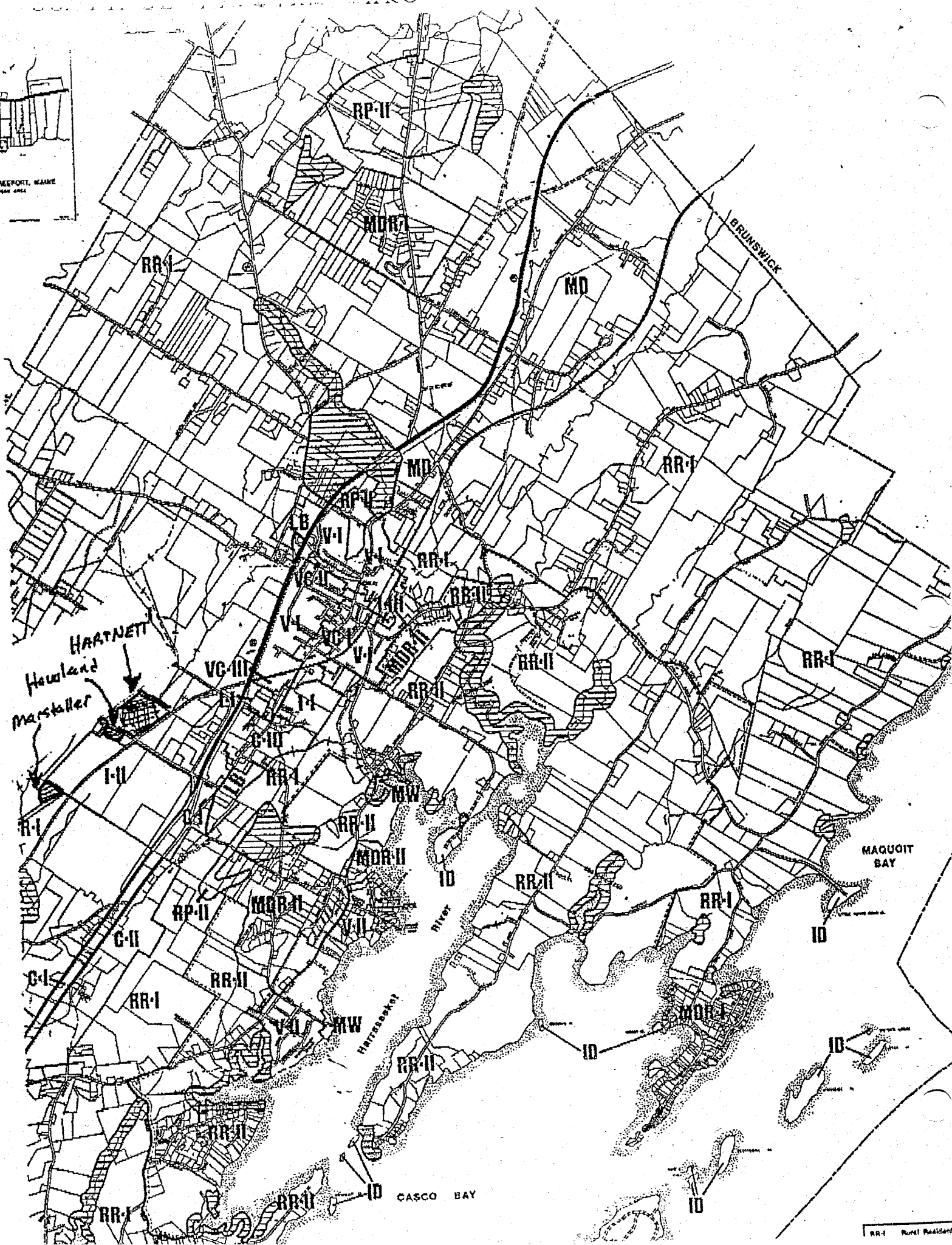
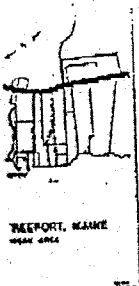
Approved Sep. 8, 1995

~~PROPOSED~~

AMENDMENTS TO THE FREEPORT ZONING MAP
(Chapter 2)

Planning Board Recommendations - 8/10/92

1. Recommend to the Town Council the rezoning of three properties, Map 22, Lot 22, Map 22, Lot 22E, Map 26, Lot 21 from RRI to I-II, conditioned upon creation of a 100' landscaped buffer zone along Desert Road created in a manner acceptable to the Town Council.
Motion - Lea Second - Hindley 6-0 in favor (Thompson abstained)
2. Recommend to the Town Council the rezoning of the Hartnett property (Map 22, Lot 21) from RR I to I-II with the following conditions:
 - a. A conservation easement for public access from Desert Road to Merrill Brook be granted for access to the roughly 30 acres of undevelopable rear property.
 - b. A deed restriction or other suitable mechanism shall be obtained to create an appropriate buffer along both sides of Desert Road.
 - c. The Gerber lot and the adjacent lot shall be limited to business and professional office use plus permitted uses not requiring site plan review.
Motion - Rumpf Second - Hindley 4-1 (Lea)
Thompson & Creasy abstained





WISHCAMPER
O'NEIL

PROPERTIES, INC.

428 Cumberland Avenue
Portland, Maine
04101

Telephone 207 774 6989
Facsimile 207 774 6998

August 11, 1992

VIA FAX

Freeport Town Council
c/o Dale Olmstead
Municipal Building
Freeport, ME 04032

Dear Members:

Wishcamper O'Neil Properties, Inc. has requested a zone change from RR-1 to I-11 for the following parcels adjacent to the Desert Road Industrial Park:

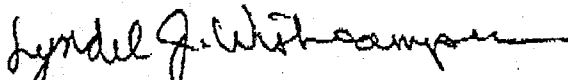
So-called Howland property
So-called Marstaller property
So-called Hartnett property

These parcels are marked on the attached map.

Having received a favorable recommendation from the Planning Board, we request that the Council set a public hearing on our requests for August 25, 1992.

Thank you.

Sincerely,


Lyndel J. Wishcamper

LJW/lp
Attachment

P. H. August 25, 1992

Approved Sep. 8, 1992
~~PROPOSED~~

AMENDMENT TO THE TRAFFIC & PARKING ORDINANCE
(CHAPTER 48)

Section 48-301 No Parking Zones

No vehicle shall stand, stop, or park at any time in any of the following specified locations

65. On the easterly side of Depot Street from
Bow Street extending southerly 135 feet.

Note: This amendment will allow for the creation of left and right turn lanes at the Depot Street/Bow Street intersection. Three parking spaces will be lost.

Approved Sep. 8, 1992
~~PROPOSED AMENDMENTS TO~~

CHAPTER 32 SHELLFISH CONSERVATION ORDINANCE

TOWN OF FREEPORT

1. **AUTHORITY:** This Ordinance is enacted in accordance with 12 M.R.S.A., Section 6671.
2. **PURPOSE:** To establish a Shellfish Conservation Program for the Town of Freeport which will insure the protection and optimum utilization of shellfish resources within its limits. These goals will be achieved by means which may include:
 - A. Licensing;
 - B. Limiting the number of shellfish harvesters;
 - C. Restricting the time and area where digging is permitted;
 - D. Limiting the minimum size of clams taken;
 - E. Limiting the amount of clams taken daily by a harvester.
3. **EFFECTIVE DATE, DURATION, AND AMENDMENT;**
 - A. Effective Date: This Ordinance which has been approved by the Commissioner of Marine Resources shall become effective after its adoption by the Municipality. A certified copy of the Ordinance is filed with the Commissioner within twenty (20) days of its adoption.
 - B. Duration: This Ordinance shall remain in effect for three (3) years from its adoption. It shall be repealed by operation of law at that time. Should the Town desire to continue with a Municipal Conservation Program, the Ordinance must be replaced on or before the time of repeal by this or a similar Ordinance.
 - C. Amendment: This Ordinance may be amended from time to time by the Town Council. Prior to adopting an amendment, the written approval of the amendment by the Commissioner of Marine Resources shall be filed with the Town Clerk. A certified copy of any amendment adopted by the Town Council shall be filed with the Commissioner of Marine Resources within 20 days of its adoption.
4. **SHELLFISH CONSERVATION COMMISSION:** The Shellfish Conservation Program for the Town of Freeport will be administered by the Shellfish Conservation Commission consisting of five (5) members to be appointed by the Freeport Town Council for terms of three (3) years. The Commission's responsibilities include:

- B. Nonresident: The word "Nonresident" means anyone not qualified as a resident under this Ordinance.
 - C. Shellfish, Clams: When used in the context of this Ordinance, the words "shellfish" and "clams" mean softshell clams, *Mya Arenaria*.
 - D. Municipality: Refers to the Town of Freeport, Maine.
 - E. All flats bordering the Wolf's Neck State Park as of December 8, 1983 are now under the jurisdiction of the Freeport Shellfish Conservation Ordinance. Recreational digging in Wolf's Neck State Park will not require a recreational license.
6. **LICENSING:** Municipal Shellfish Digging License is required. It is unlawful for any person to dig or take shellfish from the shores and flats of this Municipality without having a current license issued by this Municipality as provided by this Ordinance.

A Commerical Digger must also have a valid State of Maine Commercial Shellfish License issued by the Department of Marine Resources.

A. Designation, Scope, and Qualifications:

- (1) **Resident Commercial Shellfish License:** The license is available to residents of the Town of Freeport and entitles the holder to dig and take any amount of shellfish from the shores and flats of this Municipality and reciprocating municipalities.
- (2) **Nonresident Nonreciprocating Commercial Shellfish License:** The license is available to nonresidents of this Municipality and entitles the holder to dig and take any amount of shellfish from the shores and flats of this Municipality.
- (3) **Resident Recreational Shellfish License:** The license is available to residents and real estate taxpayers of this Municipality and entitles the holder to dig and take no more than one peck of shellfish in any day for the use of himself and his family.
- (4) **Nonresident Nonreciprocating Recreational Shellfish License:** The license is available to any person not a resident of this Municipality and entitles the holder to dig and take no more than one peck of shellfish in any one day for the use of himself and his family.

- (2) Nonresident Nonreciprocating Commercial: One-Hundred Fifty Dollars (\$150.00)
- (3) Resident Recreational: Ten Dollars (\$10.00)
- (4) License Fees will be waived for residents 65 years or older.

D. Limitation of Diggers: Because the shellfish resources are limited and because a commercial or recreational digger can be expected to harvest a certain volume of clams per year, the number of diggers must be controlled. This number will vary from year to year depending upon estimates of the resource capabilities and management requirements consistent with good resource utilization. The following procedures will be followed to exercise the control:

- (1) Prior to January 1 the Freeport Shellfish Conservation Commission with the approval of the Commissioner of Marine Resources will establish the number of commercial or noncommercial licenses to be permitted.
- (2) The Shellfish Conservation Commission will notify the Town Clerk in writing prior to February 1 of the number of licenses to be issued. No reservation will be accepted by telephone.
- (3) The Town Clerk shall issue commercial renewal and non-renewal licenses to residents and non-residents according to the following priority. Ten percent of the renewal and non-renewal commercial licenses shall be retained for non-residents during the period of issuance

Renewal License: This category is available on the first municipal business day in March. Applicants must have been licensed for the previous year; must have completed twelve (12) hours of conservation work as determined by the Shellfish Conservation Commission; and have less than two (2) offenses of this Ordinance. ~~In the event that the number of qualifying applications exceeds the number of available licenses, licenses shall be awarded pursuant to the procedure set forth in Section 6 (I) of this Ordinance.~~

In the event that the number of qualifying applications exceeds the number of available licenses, licenses shall be awarded pursuant to the procedure set forth in Section 6 (I) of this Ordinance.

have the convictions. The second suspension under this paragraph shall be for thirty (30) days; the third for one hundred and eighty (180) days; and the fourth and subsequent for three hundred and sixty-five (365) days.

H. Surrender of License: Any licensee may surrender his or her license and receive a refund of the fee paid, prorated for the remaining term of the license, and less a ten percent (10%) administrative fee. Any surrendered license shall be reissued in a manner consistent with State law and subsection 6(D)(3) of this Ordinance.

I. Procedure for issuing licenses when number of qualifying applications exceeds number of available licenses: If, in any of the three categories of license described in Section 6 (D) (3), the number of qualifying applications exceeds the number of available licenses on issuance date, licenses in that category shall be issued according to the following procedure:

- (1) The Town Clerk shall designate an assistant, who may be any appointed municipal official or municipal employee who is disinterested in the outcome of the procedure. "Disinterested" means not related by blood, marriage or adoption to any of the applicants and not having a direct or indirect pecuniary interest in the outcome of the procedure. No elected municipal official and no member of the Shellfish Conservation Commission shall serve as the Clerk's assistant in carryout this procedure.
- (2) The Clerk shall prepare a list of the names of the qualifying applicants; the list need not be in any particular order. Next to each name on the list, the Clerk shall enter a unique three digit number, selected at random, and shall write each such number on an index card. All the index cards shall be of uniform size, color and texture.
- (3) The Clerk's assistant shall then place all the numbered index cards in a box or other container capable of being closed and sufficiently large that the index cards can be mixed by shaking the container.

made after the hearing shall be based on findings of fact.

8. **FINES:** Any person harvesting shellfish in an area closed for conservation shall be subject to the following:

1. First Offense - dumping of shellfish; 10 days loss of Town License - \$50.00 Fine
2. Second Offense - dumping of shellfish; 20 days loss of Town License - \$100.00 Fine
3. Third Offense - dumping of shellfish; 30 days loss of Town License - \$200.00 Fine
4. After the third offense, licensee must appear before the Shellfish Commission before license can be returned.

Offense period runs from April 1st to March 30th.

SECTIONS DEALING WITH MINIMUM LEGAL SIZE OF SOFT SHELL CLAMS AND METHOD OF DETERMINING TOLERANCE

A. Minimum Legal Size of Soft Shell Clams: It is unlawful to possess soft shell clams less than two (2) inches in length. The tolerance is listed below:

1. Tolerance: Any person may possess soft shell clams that are less than two (2) inches if, beginning on the effective date of this article, they comprise less than 10% of any bulk pile; and beginning in calendar year 1986, they comprise less than 10% of any bulk pile. The tolerance shall be determined by numerical count of not less than one (1) peck nor more than four (4) pecks taken at random from various parts of the bulk pile or by count of the entire pile if it contains less than one (1) peck.
2. Method of Determining Tolerance: The tolerance is determined by a one (1) peck measure of a "LOT". The word "LOT" as used in this Ordinance means the total number of soft shell clams in any bulk pile. Where soft shell clams are in a box, barrel or other container, the contents of each box, barrel or

Approved September 8, 1992